

REMARKS

*Summary of the Amendment*

Upon entry of the above amendment, claim 47 will have been canceled. Additionally, claims 33, 38, 48, 99 and 100 will have been amended. Accordingly, claims 33-46 and 48-104 will be pending, with claims 33, 99 and 100 being in independent form.

*Summary of the Official Action*

In the instant Office Action, the Examiner rejected claims 33-104 over the art of record. By the present amendment and remarks, Applicant submits that the rejections have been overcome, and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

*Traversal of Rejection Under 35 U.S.C. § 102(b)*

Claims 33-83, 92, 96-101 and 103 were rejected as being anticipated by WO 96/03616 to FLEISCHER.

The Examiner asserted that FLEISCHER discloses all of the features of the above-noted claims including, among other things, a movable measurement device for use on a running web. Reconsideration of the above-noted rejection is respectfully requested.

As a preliminary matter, by this amendment and in order to advance prosecution,

P21470.A06

Applicant has amended independent claims 33, 99 and 100 to recite features which are not disclosed or suggested by this document. Accordingly, these claims are believed to be allowable at least for this reason.

Specifically, Applicant respectfully submits that this document fails to disclose, or even suggest, inter alia, that the at least one measuring device *moves along the at least two degrees of freedom of movement during data detection*, as recited in amended independent claims 33 and 99, and inter alia, the method comprising *moving the at least one measuring device along the at least two degrees of freedom of movement, and during the moving, detecting data relating to at least one measured parameter*, at a plurality of measurement locations and using the at least one measuring device, as recited in amended independent claim 100.

Applicant does not dispute that FLEISCHER discloses a device for measuring the caliper of a paper making fabric (see Abstract). Nor does Applicant dispute that Fig. 2 shows that the measurement assembly B is mounted to the stand 40 via various rotatable joints 50, 60 and 64. However, it is clear that the disclosed device is entirely incapable of conducting any measurements while the head 70 is moving. To the contrary, page 6 of this document explains that the joints utilize “manual knobs”, e.g., ref. 54, which are used to “lock and unlock yaw coupling 50 to adjust it about standard shaft 50.” Thus, it is clear that the measurement device B is capable of movement only for an initial positioning of the device.

P21470.A06

Clearly, such a device is entirely incapable of conducting measurements until it is so positioned.

On the other hand, amended independent claim 33 recites inter alia, that the at least one measuring device *moves along the at least two degrees of freedom of movement during data detection*. Moreover, amended independent claim 100 recites inter alia, the method comprising *moving the at least one measuring device along the at least two degrees of freedom of movement, and during the moving, detecting data relating to at least one measured parameter*, at a plurality of measurement locations and using the at least one measuring device. These features are simply not disclosed, or even suggested, in this document.

Applicant notes that, for an anticipation rejection under 35 U.S.C. § 102 to be proper, each element of the claim in question must be disclosed in a single document, and if the document relied upon does not do so, then the rejection must be withdrawn.

Because this document fails to disclose at least the above mentioned features as recited in at least amended independent claims 33, 99 and 100, Applicant submits that each of these documents does not disclose all the claimed features recited in at least amended independent claims 33, 99 and 100.

Further, the rejection of claim 47 is rendered moot in as much as this claim has been canceled. Moreover, Applicant submits that the above-noted dependent claims are allowable

P21470.A06

at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper reading of FLEISCHER discloses or even suggests: that the at least one measuring device is located in at least one of a machine for manufacturing the material web, a machine for refining the material web, a paper making machine, and a dryer section as recited in claim 34; that the measured parameters which relate to a characteristic value of air comprise at least one of air temperature, air moisture, air flow, air flow direction and air flow speed as recited in claim 35; that the measured parameters which relate to the material web comprise at least one of a thickness of the material web, a temperature of the material web, and a moisture content of the material web as recited in claim 36; that the other measured parameters comprise at least one of a temperature of dry air used to dry the material web, a dew point of dry air used to dry the material web, a temperature prevailing at or in a region of a surface of a dryer cylinder of a paper making machine, a permeability at a dryer sieve, a speed of air flow that is present at a surface of a dryer sieve, air humidity at an individual machine component, and air humidity at certain locations of the material web as recited in claim 37; that the at least one measuring device moves while it measures without interruption from data detection as recited in claim 38; that the at least one measuring device is adapted to simultaneously carry out the at least two degrees of freedom of movement as recited in claim 39; that the at least one measuring device is adapted to carry out the at least

P21470.A06

two degrees of freedom of movement, one after the other timewise as recited in claim 40; that the at least one measuring device is movable in at least a first direction and in at least a second direction as recited in claim 41; that the second direction is perpendicular to the first direction as recited in claim 42; that the at least one measuring device is movable in at least a first direction, in at least a second direction, and in at least a third direction as recited in claim 43; that the second direction is perpendicular to the first direction and wherein the third direction is perpendicular to the second direction as recited in claim 44; that the at least one measuring device is movable, with respect to a running direction of the material web, at least one of parallel to the running direction and perpendicular to the running direction as recited in claim 45; that the at least one measuring device is movable, with respect to a running direction of the material web, at least one of along the running direction, transverse to the running direction, and vertically to the running direction as recited in claim 47; that the at least two degrees of freedom of movement comprises at least two linear movements as recited in claim 48; that one of the at least two linear movements is perpendicular to another of the at least two linear movements as recited in claim 49; that the at least two linear movements comprises three linear movements as recited in claim 50; that one of the three linear movements is perpendicular to at least one of the other two of the three linear movements as recited in claim 51; that the at least one measuring device is rotatable about at least one axis as recited in claim 52; that the at least one axis comprises at least a first axis

P21470.A06

and at least a second axis as recited in claim 53; that the second axis is perpendicular to the first axis as recited in claim 54; that the at least one axis comprises a first axis, a second axis, and a third axis as recited in claim 55; that the second axis is perpendicular to the first axis as recited in claim 56; that the third axis is perpendicular to the second axis as recited in claim 57; that the at least one measuring device is adapted to be oriented in any desired manner in space by executing a plurality of rotary movements as recited in claim 58; that the plurality of rotary movements comprise at least two rotary movements as recited in claim 59; that one of the plurality of rotary movements has a first axis and another of the plurality of rotary movements has a second axis which is perpendicular to the first axis as recited in claim 60; that the at least two rotary movements comprise three rotary movements as recited in claim 61; that one of the three rotary movements has a first axis, another of the three rotary movements has a second axis, and still another of the three rotary movements has a third axis, with the second axis being perpendicular to the first axis as recited in claim 62; that one of the three rotary movements has a first axis, another of the three rotary movements has a second axis, and still another of the three rotary movements has a third axis, with the second axis being perpendicular to the first axis and with the third axis being perpendicular to the second axis as recited in claim 63; that the at least one measuring device is adapted to move along any desired presettable curve in space and is adapted to be oriented in any desired manner in space by executing a plurality of linear movements and rotary movements as

P21470.A06

recited in claim 64; that the plurality of linear movements and rotary movements occur simultaneously as recited in claim 65; that the plurality of linear movements and rotary movements occur one after another timewise as recited in claim 66; that at least one linear movement of the at least one measuring device is adapted to be changeable as recited in claim 67; that at least one rotational movement of the at least one measuring device is adapted to be changeable as recited in claim 68; that an orientation of the at least one measuring device is adapted to be changeable as recited in claim 69; that the apparatus further comprises one of a beam and a stationary frame, wherein the at least one measuring device is movable relative to the one of a beam and a stationary frame as recited in claim 70; that the at least one measuring device is one of connected to and movably attached to at least one of a frame, a beam, and a machine as recited in claim 71; that the at least one measuring device is movably attached to a machine as recited in claim 72; that the apparatus comprises a mobile unit which can be used at different locations on a machine as recited in claim 73; that the at least one measuring device is movably connected to a joint as recited in claim 74; that the joint comprises at least one of a ball joint and a joint which enables a pivotal movement in at least one plane as recited in claim 75; that the at least one measuring device comprises at least one exchangeable measuring head as recited in claim 76; that the apparatus is adapted to utilize a plurality of different measuring devices as recited in claim 77; that the at least one measuring device is adapted to utilize a plurality of exchangeable measuring

P21470.A06

heads as recited in claim 78; that the at least one measuring device comprises a plurality of measuring devices as recited in claim 79; that the plurality of measuring devices comprises interchangeable measuring heads as recited in claim 80; that each of the plurality of measuring devices is adapted to measure a different parameter as recited in claim 81; that the apparatus further comprises at least one of a common operation unit and a control unit associated with the at least one measuring device as recited in claim 82; that the apparatus further comprises at least one of a drive unit, a supply unit, a data detection unit and an evaluation unit associated with the at least one measuring device as recited in claim 83; that the at least one measuring device is movably disposed in a cellar of a dryer section of a paper making machine as recited in claim 92; that the apparatus further comprises at least one of an electrical, a pneumatic, and a hydraulic drive for moving the at least one measuring device as recited in claim 96; that the at least one measuring device is adapted to be manually movable as recited in claim 97; that the at least one measuring device is rotatable about at least one axis and so as to be able to detect at least one measured parameter at a plurality of measurement locations as recited in claim 98; that the at least one measuring device is located in at least one of a machine for manufacturing the material web, a machine for refining the material web, a paper making machine, and a dryer section as recited in claim 101; and that the measured parameters which relate to the material web comprise at least one of a thickness of the material web, a temperature of the material web, and a moisture content



P21470.A06

of the material web as recited in claim 103.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the above-noted rejections and further requests that the above noted claims be indicated as allowable.

*Traversal of Rejections Under 35 U.S.C. § 103(a)*

Applicant traverses the Examiner's rejection of claims 84-91 and 93-95 under 35 U.S.C. § 103(a) as being unpatentable over FLEISCHER alone.

Applicant also traverses the Examiner's rejection of claims 102 and 104 under 35 U.S.C. § 103(a) as being unpatentable over FLEISCHER in view of US patent 5,718,060 to MORI.

The Examiner asserted that FLEISCHER discloses all the claimed features except for a measurement device that is coupled to a frame, a measurement device that is protected against falling objects, and except for measuring parameters such as air temperature, moisture, flow, flow direction, flow speed, and other parameters such as the temperature of dry air used to dry the web. However, the Examiner asserted that the former features are obvious and that MORI teaches to measure web drying air. Accordingly, the Examiner concluded that it would have been obvious to one of ordinary skill in the art to modify FLEISCHER in view of MORI in order to render the above-noted claims unpatentable.

P21470.A06

Reconsideration of the above-noted rejection is respectfully requested.

As a preliminary matter, by this amendment and in order to advance prosecution, Applicant has amended independent claims 33, 99 and 100 to recite features which are not disclosed or suggested by these documents. Accordingly, these claims are believed to be allowable at least for this reason.

Specifically, Applicant respectfully submits that no proper modification of FLEISCHER or proper combination of FLEISCHER and MORI discloses or suggests, inter alia, that the at least one measuring device *moves along the at least two degrees of freedom of movement during data detection*, as recited in amended independent claims 33 and 99, and inter alia, the method comprising *moving the at least one measuring device along the at least two degrees of freedom of movement, and during the moving, detecting data relating to at least one measured parameter*, at a plurality of measurement locations and using the at least one measuring device, as recited in amended independent claim 100.

As explained above, Applicant does not dispute that FLEISCHER discloses a device for measuring the caliper of a paper making fabric (see Abstract). Nor does Applicant dispute that Fig. 2 shows that the measurement assembly B is mounted to the stand 40 via various rotatable joints 50, 60 and 64. However, it is clear that the disclosed device is entirely incapable of conducting any measurements while the head 70 is moving. To the contrary, page 6 of this document explains that the joints utilize "manual knobs", e.g., ref.

P21470.A06

54, which are used to “lock and unlock yaw coupling 50 to adjust it about standard shaft 50.” Thus, it is clear that the measurement device B is capable of movement only for an initial positioning of the device. Clearly, such a device is entirely incapable of conducting measurements until it is so positioned.

Applicant also does not dispute that MORI discloses calculating the temperatures of various parts of features of a paper making apparatus (see col. 12, lines 34-38). However, there is no apparent disclosure in this document regarding a measurement device that can conduct measurements while it is moving. Indeed, the Examiner has failed to identify any such disclosure.

On the other hand, amended independent claim 33 recites inter alia, that the at least one measuring device *moves along the at least two degrees of freedom of movement during data detection*. Moreover, amended independent claim 100 recites inter alia, the method comprising *moving the at least one measuring device along the at least two degrees of freedom of movement, and during the moving, detecting data relating to at least one measured parameter*, at a plurality of measurement locations and using the at least one measuring device. These features are simply not disclosed, or even suggested, in this document.

Thus, even if these documents were properly combined, which Applicant submits they cannot be, they would nevertheless lack features which are recited in at least amended

P21470.A06

independent claims 33, 99 and 100. Moreover, each of these documents fails to disclose or suggest the requisite motivation or rationale for combining these documents in the manner asserted by the Examiner. Additionally, Applicant submits that MORI fails to cure the deficiencies in FLEISCHER, and vice versa.

Finally, Applicant direct the Examiner's attention to the guidelines identified in M.P.E.P section 2141 which state that "[i]n determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification." *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

As this section clearly indicates, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)."

Moreover, it has been legally established that "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430

P21470.A06

(Fed. Cir. 1990) .... Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (flexible landscape edging device which is conformable to a ground surface of varying slope not suggested by combination of prior art references).

Additionally, it has been held that "[a] statement that modifications of the prior art to meet the claimed invention would have been " well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)."

Accordingly, Applicant submits that no proper combination of the above-noted documents discloses or suggests the combination of features recited in at least independent claims 33, 99 and 100, much less, claims 84-91, 93-95, 102 and 104 which depend from claims 33 and 100 and further recite: that the apparatus further comprises a frame, wherein the at least one measuring device is coupled to the frame as recited in claim 84; that the frame extends transverse to a running direction of the material web as recited in claim 85; that the frame is located beneath the material web as recited in claim 86; that the frame is

P21470.A06

located in a region of one of a dryer cylinder and a dryer roll as recited in claim 87; that the frame is located in a paper making machine, the frame being supported on both sides of the paper making machine as recited in claim 88; that the at least one measuring device is coupled to a beam as recited in claim 89; that the beam is one of vertically oriented and transversely oriented relative to a running direction of the material web as recited in claim 90; that the beam is located in a dryer section of a paper making machine as recited in claim 91; that the apparatus further comprises a protective device for protecting the at least one measuring device as recited in claim 93; that the protective device is adapted to protect against downwardly falling articles as recited in claim 94; that the protective device comprises at least one of a scraper and a sheet metal shield as recited in claim 95; that the measured parameters which relate to a characteristic value of air comprise at least one of air temperature, air moisture, air flow, air flow direction and air flow speed as recited in claim 102; and that the other measured parameters comprise at least one of a temperature of dry air used to dry the material web, a dew point of dry air used to dry the material web, a temperature prevailing at or in a region of a surface of a dryer cylinder of a paper making machine, a permeability at a dryer sieve, a speed of air flow that is present at a surface of a dryer sieve, air humidity at an individual machine component, and air humidity at certain locations of the material web as recited in claim 104.

Accordingly, Applicant requests that the Examiner reconsider and withdraw the

P21470.A06

rejections of the above-noted claims under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

### CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious Applicants' invention, as recited in each of the pending claims. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

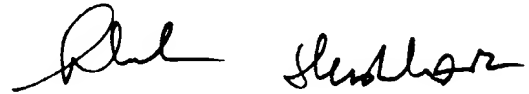
Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

The Commissioner is hereby authorized to charge any additional fee necessary to have this paper entered to Deposit Account No. 19-0089.

P21470.A06

Should the Examiner have any further comments or questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Markus OECHSLE et al.



*Reg. No. 45, 297*

---

Neil F. Greenblum  
Reg. No. 28,394

April 23, 2003  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191

Attachment: Appendix